

REMARKS

This is in response to the final Office Action mailed on July 28, 2004. Claims 1-3, 7-12 and 17-20 were pending in the application and were rejected. No claims are amended with this response.

Rejection of Claims 1-3 and 10-12

Although the Office Action states that "Claims 1-3 and 10-12 are rejected under 35 U.S.C. 102(b) as anticipated by Marques et al. in view of Grinberg" (emphasis supplied), applicants recognize that this should read "Claims 1-3 and 10-12 are rejected under 35 U.S.C. 103 as unpatentable over Marques et al. in view of Grinberg."

The grouping of claims 1-3 and 10-12 include independent claims 1 and 11. Claims 2-3 and 10 depend from claim 1, and claim 12 depends from claim 11. Independent claim 1 includes the feature a "fresh air vent terminated in the ambient atmosphere . . . wherein the fresh air vent draws air from beneath the seat, and from outside the operator compartment." Independent claim 11 includes the feature "wherein the fresh air intake is terminated in the ambient atmosphere and is arranged to receive air from beneath the seat and from exterior to the operator compartment."

The proposed combination of Marques and Grinberg does not satisfy these features. For example, Marques is not terminated in the ambient atmosphere and it does not receive fresh air from beneath the seat. Fresh air is received in the inlet 14, which travels through the post and into a tubular cross member 15. Grinberg, owned by the same assignee as Marques, describes this as the "tortuous path that fresh air must traverse" within the system of Marques. Thus, the assignee of Marques itself describes the fresh air inlet as not 21 but 14, above the seat, and contrary to that in the Office Action. As for Grinberg, it does not receive air from beneath the seat either. It receives fresh air from the sides of the operator compartment.

Accordingly, the combination of Marques and Grinberg does not teach a structure that meets the terms of the claims.

In addition, claims 1 and 11 each include the feature of a "modular ventilation control system." This is not shown in the references separately and thus cannot be found in any proposed combination of the references. Marques teaches a system that is clearly integrated into the frame of the vehicle. From the tortuous fresh air path to the exit path that winds out of and back into the operator compartment, Marques does not disclose or suggest a modular system. Grinberg includes ducts spread throughout the cabin and clearly is not modular. Applicants respectfully submit that the combination of references does not teach the modular ventilation system of claims 1 and 11.

Still further, applicant submit that there is no suggestion in the prior art to combine the references. Grinberg describes the system of Marques as typical in using the existing tubular framework in drawing fresh air into the system to make the best use of space to draw fresh air into the system. Grinberg also describes the filter arrangement of Marques, under the operator seat, as a confined space where undesirable restrictions of air flow are introduced. Grinberg addresses the restrictions by moving the fresh air inlets to the sides of the operator compartments. The prior art does suggest that a system can be receive air inlets from beneath the seats and be terminated in the outside air. Accordingly, the references are improperly combined.

Based on the above, applicants respectfully submit that claims 1 and 11 are patentably distinguishable from the prior art of record, and that the rejected claims 2-3 and 10, depending from claim 1, and claim 12, depending from claim 11, are patentably distinguishable also.

Rejection of Claims 7-9

Claims 7-9 were rejected under 35 U.S.C. 103 as being unpatentable over Marques in view of Grinberg and further in view of Wilson. Claims 7-9 require that the system be modular and the fresh air vent terminated in the ambient atmosphere . . . wherein the fresh air vent draws air from beneath the seat, and from outside the operator compartment. These features are not shown in Marques or Grinberg, as described above, and do not exist in Wilson. Because the features of the claims are missing from the references individually, they cannot be found in any proposed combination of references. Also, as described above, there is no suggestion in the prior art to combine the references in the manner proposed. Accordingly claims 7-9 are patentably distinguishable from the prior art of record.

Rejection of Claim 17

Claim 17 was rejected under 35 U.S.C. 102(b) as anticipated by Marques. Claim 17 includes the feature of "a plurality of inlet vents disposed on opposite sides of the modular ventilation control system" This feature is not shown or suggested in Marques.

Also, Marques does not show a modular system as required by the claim. The Office Action refers to the system of Marques as including inlet 14 and tubular post 13. These elements are part of the frame of the vehicle, and any system including these components cannot be considered modular in any strained sense of the word.

Further, the Office Action appears to characterize a construction of the system as including the inlet 14, and tubular posts 13 as parts of the inlet system. These inlet system components provide fresh air to the system. However the Office Action takes the inconsistent position that the inlet that is the fresh air vent is further down the fresh air path at 21. The fresh air vent of the inlet vent cannot include upstream

components 14 and 13 if it corresponds to a midstream component 21 as in the Office Action. Further, the assignee characterizes the fresh air vent as the upstream component 14, not 21. Still further, it does not make sense that a "fresh air inlet" is in the middle of an airflow path rather than at the beginning.

Applicants submit that because Marques does not include several of the features of the claim, and that it has been incorrectly and inconsistently interpreted as having at least one of the features of the claim, that Marques does not anticipate claim 17.

Rejection of claims 18-20

Claims 18-20 were rejected under 35 U.S.C. 102(b) as anticipated by Marques. Claims 18-20 include the feature "wherein the fresh air intake is terminated in the ambient atmosphere" As acknowledged in the Office Action on page 2, Marques "discloses the claimed invention except for the fresh air vent terminating in the ambient atmosphere." Applicant respectfully submits that claims 18-20 are not anticipated by Marques.

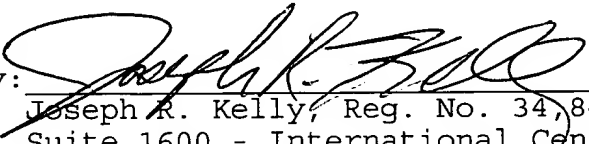
Claims 18-20 depend from claim 11, which is discussed above and is patentably distinguishable from the prior art of record. Applicants respectfully submit that claims 18-20 are also patentable.

Applicants respectfully submit that the pending claims 1-3, 7-12 and 17-20 are allowable over the prior art of record. Reconsideration and allowance of the claims are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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